UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 28

MEDICWEST AMBULANCE, INC.[1]

Employer

and **Case 28-RC-6536**

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS AND HELPLERS, AFL-CIO[2]

Petitioner

DECISION AND DIRECTION OF ELECTION

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO (Petitioner) has filed a petition, as amended at the hearing,[3] in which it seeks an election within a unit comprised of approximately 140 full-time and regular part-time Emergency Medical Technicians (EMTs), paramedics, and suppliers employed at MedicWest Ambulance, Inc. (Employer) at its facility located at 9 West Delhi Avenue, North Las Vegas, Nevada, excluding all supervisors, managers, guards, office and clerical employees, and all other employees. Contrary to the Petitioner, the Employer asserts that the only appropriate unit must include, in addition to the classifications stated in the petition, all full-time and regular part-time EMTs and paramedics working in Special Events, Operations Supervisors, Field Supervisors, and Associate Leads, dispatchers, nurses, and mechanics. The unit proposed by the Employer would include approximately 300 employees. Nevada Service Employees Union, Local 1107[4] sought and was granted permission to intervene in this matter based solely on its status as the representative of certain other of the Employer's employees. Such intervention was permitted for the purpose of allowing the Intervenor to protect its interests in the unit that it represents. Intervenor's intervention, however, is limited and will not result in the Intervenor's being placed on the ballot in the directed election.

---

[1] The name of the Employer appears as corrected at the hearing.
[2] The name of the Petitioner appears as corrected at the hearing.
[3] The Petitioner amended the petition to reflect that those employees it seeks to represent are "all full-time and regular part-time."
[4] The name of the Intervenor appears as stated by counsel for the Intervenor at the hearing, and as it appears on Petitioner's Exhibit 2, an Agreement between American Medical Response Las Vegas Operations and Service Employees International Union Local 1107. Subsequent documents, including the cover pages of the transcript of the hearing, certain service sheets issued by the Region, and the Petitioner's and Intervenor's briefs, identify the Intervenor as Nevada Service Employees Union, Local 1107, affiliated with Service Employees International Union, CTW; however, there is nothing in the formal papers or stated at the hearing that identifies the Intervenor as such.

Although the Petitioner and the Employer agree that the unit found appropriate should include full-time and regular part-time employees, they disagree on the formula to be used in determining part-time status. The Petitioner argues that part-time employees who have worked a minimum of 120 hours in either of the two 3-month periods immediately preceding the date of this Decision should be eligible to vote. In contrast, the Employer contends that part-time employees who have worked an average of at least four hours per week over the calendar quarter preceding the filing of the underlying petition should be eligible to vote. Finally, the Petitioner and the Employer disagree as to the eligibility of Jennifer Calabrese, a paramedic, with the Petitioner positing that she should be excluded from the unit found appropriate inasmuch as she is the wife of member of management, and the Employer taking no position on the issue.

The Intervenor contends that the petition is premature and should be dismissed on the basis that the petitioned-for unit should include employees of the Employer and American Medical Response (AMR). It also argues that, at the time of the hearing, there was a pending acquisition of the Employer by AMR, with whom the Intervenor has a collective-bargaining agreement, effective by its terms from November 1, 2005 through October 31, 2008. This agreement covers full-time and part-time paramedics, EMT-1s and EMT-2s employed by AMR. The Intervenor further contends that the petition should be dismissed because the collective-bargaining agreement between it and AMR serves as a bar to the petition and that the acquisition of the Employer by AMR will result in the Employer's employees being accreted into the existing AMR unit. Contrary to the Intervenor, the Petitioner argues that the finding of an accretion in this matter is inappropriate, because: (1) accretion is inapplicable where the group of employees sought to be accreted would constitute a separate appropriate bargaining unit; (2) record evidence is insufficient to support a determination that an accretion would be appropriate; (3) there is insufficient record evidence that the employees of the Employer and AMR share a sufficient community of interest so as to defeat the single-facility presumption; and, (4) the suggestion that the Employer and AMR will "merge" their operations at some point in the future is too speculative to be relevant at this time. The Employer takes no formal position on the status of the Intervenor or the issues for which it argues, particularly the issue of accretion.

For reasons discussed more fully below, I make the following findings. First, I conclude that although the merger/acquisition between the Employer and AMR may be imminent, the Intervenor's arguments that the petitioned-for unit would be accreted into the existing unit at AMR are too speculative and theoretical to warrant dismissal of the petition. I further conclude that the Intervenor has not rebutted the presumption that the petitioned-for single-facility unit is an appropriate unit. Second, I find that the Employer's Special Services and Events EMTs and paramedics and its dispatchers share an overwhelming community-of-interest with the petitioned-for unit and should be included in the unit. Third, I find that the full-time and regular part-time nurses are a distinct and separate group comprised of professional employees and should be excluded from the unit. Fourth, I find that the Fleet employees (loosely referred to at the hearing in the vernacular as "mechanics") should be excluded from the unit as they constitute a distinct and separate group that does not share a sufficient community-of-interest with the EMTs, paramedics, suppliers and dispatchers that necessitates their inclusion in the unit. Fifth, I find that Associate Leads are not supervisors within the meaning of Section 2(11) of the Act, but that Operations Supervisors, Field Events Supervisors, and Special Events Supervisor are supervisors within the meaning of Section 2(11), and that only the Associate

Leads should be included in the unit. Sixth, I find that the evidence does not show that "special circumstances" exist sufficient to exclude Jennifer Calabrese from the unit and will, therefore, include her in the unit. Finally, I find that part-time employees who have worked a minimum of 120 hours in either of the two 3-month periods immediately preceding the date of this Decision will be eligible to vote.

DECISION

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. Hearing and Procedures: The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

2. Jurisdiction: At the hearing, the parties stipulated, and I find, that the Employer is a Nevada corporation with a place of business at 9 West Delhi Avenue in North Las Vegas, Nevada, and is engaged in providing emergency medical services to and transportation of patients to medical facilities in North Las Vegas, Nevada, and a portion of Clark County, Nevada. During the last fiscal year, the Employer, in conducting its business operation as described above, has received gross revenues in excess of $500,000, and has purchased and received materials directly from points outside the State of Nevada in excess of $50,000. Based on the parties' stipulation to such facts, I find that the Employer is an employer within the meaning of Section 2(6) and (7) of the Act and is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that it will effectuate the purposes and policies of the Act to assert jurisdiction in this matter.

3. **Labor Organization Status and Claim of Representation**: The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. Statutory Question: As more fully set forth below, a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of the Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. Unit Finding: The issues presented in this matter are: (1) whether either or both the imminent acquisition of the Employer by AMR or the collective-bargaining agreement between AMR and the Intervenor bar the petition; (2) whether the unit should include Special Services EMTs, paramedics, and dispatchers; (3) whether the unit should include registered nurses and, if so, whether the Employer's two full-time nurses are supervisors under Section 2(11) of the Act; (4) whether the unit should include Fleet employees; (5) whether Operations Supervisors, Field Supervisors, Special Events Supervisors, and Associate Leads are supervisors under the Section 2(11) of the Act and should be excluded from the unit; (6) whether Jennifer Calabrese should be excluded from the unit; and (7) the appropriate formula to be used to determine part-time eligibility status in the unit found appropriate herein.

To provide a context for my discussion of these issues, I will present the record facts regarding the Employer's operations, organizational structure, and the pending acquisition of the Employer by AMR. I will then review the relevant facts related to the terms and conditions

of employment for the Employer's Operations Department or "Field Operations" employees, Special Services employees, Support Services employees ("suppliers"), Dispatch employees, nurses, and Fleet employees, and the duties and responsibilities of the Operations Supervisors, Field Supervisors, Special Events Supervisors, and the Associate Leads. I will also discuss the record facts relating to the eligibility of Jennifer Calabrese, as well as those relating to the eligibility formula that should be utilized in determining part-time status for voting purposes. Finally, I will present the case law and analysis that supports my conclusions on these issues.

A. Employer's Operations and Organizational Structure

The Employer employs approximately 320 employees at or out of its facility located at 9 West Delhi Avenue, North Las Vegas, Nevada, where it is engaged in the business of providing emergency and non-emergency ambulance and critical care transport service, medical coverage for special events, and medical education and training. More specifically, the Employer is a franchised provider of emergency and non-emergency ground medical transportation services for the eastern half of the metropolitan area of Clark County and North Las Vegas, Nevada. It operates 44 ambulances and responds to all areas of the county under mutual aid agreements and competes for non-emergency and critical care transports in Boulder City, Clark County, Henderson, Las Vegas, and North Las Vegas. Its non-emergency services consists of Basic and Advanced Life Support services for patients requiring supervised medical transportation between medical facilities, hospitals, rehabilitation centers and other locations throughout Southern Nevada, as well as long distance transportation services for patients to points in Utah, California, or Arizona. It also offers specialized nursing transport services for patients requiring the highest level of care. Finally, the Employer provides EMT and paramedic medical coverage for many special events including concerts, sporting events, large gatherings and conventions. To provide these services, the Employer employs Emergency Medical Technician (EMT) Basics, EMT Intermediates, paramedics, nurses, suppliers, dispatchers, Fleet employees, and various supervisory and office clerical employees.

At the helm of the Employer's business are two Executive Partners, John Wilson, who oversees the operational side of the Employer, and Sharon Henry, who handles the Employer's administrative functions, including human resources, payroll, scheduling, contracts, compliance issues, billing, and communications. The parties stipulated at hearing, the record reflects, and I find, that Wilson and Henry are properly excluded from any unit found appropriate because they are supervisors within the meaning of Section 2(11). Similarly, the parties agree, the record does not otherwise indicate, and I find that all of the employees who perform administrative duties under Henry are either office clerical employees or supervisors under Section 2(11) of the Act and, therefore, are properly excluded from any unit found appropriate.

The unit issues in dispute in this matter involve job classifications in the Employer's operational division under Wilson. Accordingly, I will focus on the organizational structure of the Employer's operational division for which Wilson is responsible. The operational division is administratively organized into departments, based upon their respective functions, each department being headed by only one individual who reports directly to the Vice President of Operations, Brian Rogers, who in turn reports directly to Wilson. The sole exception to this administrative arrangement is the Fleet Department, which is a stand-alone department that apparently has no internal structural hierarchy and is led by Fleet Manager D. J. Burgner. Burgner, like Rogers, reports directly to Wilson.

1. Fleet Department

Burgner is responsible for the Fleet Department, which uses an aggressive vehicle preventative maintenance program patterned after the aviation industry to keep critical failures at a minimum and to keep the fleet in a constant state of readiness. Burgner directly oversees the Fleet employees, who perform all of the maintenance on the Employer's vehicles in-house, except warranty work and some heavy line work that is more efficiently outsourced. The evidence submitted by the Employer regarding the number of Fleet employees and their job classifications is somewhat vague and inconsistent. Specifically, Employer's Exhibit 4 is an organizational chart showing only two job classifications under Burgner: Fleet Care Technicians and Shop Assistants. The Employer's only witness, Henry, testified that the Employer's Fleet employees consist of two "mechanics," whom she thought were ASC certified but did not know what that meant, and one Shop Assistant about whose duties she did not testify. The Employer also provided a job description for "Fleet Care Technicians" that states:

> Fleet Care Technician is responsible for the safe and efficient mechanical integrity of the ambulance fleet [including] implementing and flowing the preventative maintenance program, and respond to emergency repairs necessary to keep the fleet safe and reliable. Works closely with the fleet manager to keep the fleet in top condition.

The job description further describes the minimum qualifications for a Fleet Care Technician: a high school diploma or equivalent; successful completion of the Employer's pre-employment tests; a valid Nevada driver's license; five years experience in the diesel automotive repair field; and an A/C certificate. While Henry did not testify regarding the duties performed by the Shop Assistant(s), the Employer's job description for that position indicates that the Shop Assistant is responsible for cleaning the inside and washing the outside of the Employer's ambulances. The minimum qualifications for this position are: successful completion of the Employer's pre-employment tests; a valid Nevada driver's license; and effective oral communication and interpersonal skills. However, the Employer's website, provided in Employer's Exhibit 2, paints a somewhat different picture of the Fleet department. According to the website, the Fleet department consists of ". . . a team of four full-time fleet care professionals. Two are master technicians, one line mechanic and one apprentice mechanic." Although the website does not specify when its description of the Fleet department was last updated, it does contain a notice stating the Employer's website was "revamped" in January 2007, and that it is continually being updated.

Although the parties failed to present any evidence regarding the rates of pay or hours of work of the Fleet department employees, the evidence indicates that, unlike the Employer's other job classifications, they are all full-time employees. In addition, they wear a uniform that is different than the uniforms worn by all other employees and work together on the south side of the facility by the wash bay, where they share a garage and an office. The record also establishes that Fleet employees have little contact with other employees – any contact is limited to occasional information from an EMT or a paramedic concerning mechanical issues with a particular ambulance. Fleet employees do not have to have any medical training or

certification, and have no contact with medical equipment. There is no evidence of any interchange between Fleet employees and employees in any other job classification.

On the other hand, Fleet employees share the same employee benefits as other full-time employees in other classifications, and share the same break room, locker room, and game and workout areas that are available to all full-time and part-time employees. In addition, like all full-time and part-time employees, they are permitted to use the wash bay for personal use when off duty, and can participate in "extracurricular activities" sponsored by the Employer.

2. Operations Division

As Vice President of Operations, Rogers is responsible for the bulk of the Employer's medical services business, which includes emergency medical, non-emergency medical, and critical care ambulance transportation; medical coverage at special events; support/supply services, nursing, and dispatch. There are approximately 300 full-time and part-time employees employed by the Employer in several departments within the Operations Division under Rogers.[5]

a. Operations Department

Ron Tucker, Operations Administrator, reports directly to Rogers. He is in charge of the Employer's emergency or "911" service (also referred to at the hearing as the "field operations"), which provides emergency ambulance response transportation from the scene of an accident or illness to a hospital. The field operations consist of approximately 200 full-time and part-time EMT Intermediates and Paramedics, 8 of whom are Operations/Field Supervisors who report directly to Tucker and serve as front-line supervisors. The field operations employees are the primary responders in the 911 system.

b. Specialty Services Department

Mark Calabrese, Director of Specialty Services, also reports directly to Rogers. He is responsible for the Employer's non-emergency and "Special Events" medical services, as well as the Employer's Support Services.

[5] The parties stipulated that the following individuals, who also report directly to Rogers, would not be appropriately included in any unit found appropriate because they are either office clerical employees or supervisors within the meaning of Section 2(11) of the Act: Tracy Townsend (Executive Assistant), Don Hales (Director of IT), and Larry Johnson (Clinical Director). Neither Townsend nor Hales has any employees under them, but Johnson has three employees who report to him, whom the parties also stipulated are not appropriately included in any unit found appropriate because they are either office clerical employees or supervisors under Section 2(11) of the Act. These employees are Chris Strachyra (Administrative Assistant), Amanda Curran (Clinical Coordinator), and Jason Meilleur (EMS Educator). I find no reason to disturb the agreement of the parties as to any of these categories.

1) Non-emergency and Special Events

Dan Llamas, Special Events Administrator, reports directly to Calabrese and is responsible for the non-emergency and "Special Events" functions.[6] Although these are separate and distinct functions, at the hearing they were often referred to collectively as "Special Events." Reporting directly to Llamas are three Special Events supervisors who oversee approximately 55 full-time and part-time EMT Basics, EMT Intermediates, and Paramedics who work both non-emergency and "Special Events" functions.

The non-emergency functions refers to non-emergency medical services consisting of scheduled, private retail transportation in non-emergency ambulances (referred to at the hearing as "400 trucks") of patients requiring medical services en route between medical facilities, hospitals, rehabilitation centers and other locations, including the patient's residence. "Special Events" functions refers to scheduled, medical standby services for specific events, such as concerts, sporting events, conventions, and other large gatherings. Medical standby services are performed by one or more employees, often without an ambulance, and can involve on-site medical assistance, transportation of patients from those events, or simply staffing a first aid room.

2) Support Services

Tierney Unangst, who also reports directly to Calabrese, is responsible for the Employer's Support Services, which is staffed by approximately 19 full-time and part-time "suppliers."[7] The suppliers receive "re-stock sheets" from the EMTs or paramedics, which they use to re-supply the ambulances and otherwise ensure that the ambulances are ready for the on-coming crew.

c. Dispatch Department

Laura Palmer, Dispatch Supervisor, reports directly to Rogers. She is responsible for the day-to-day operations of the Dispatch Department, which employs approximately 14 full-time and part-time dispatchers, all of whom work in an office – the dispatch center – at the Employer's facility. Palmer assists in the posting of dispatch openings, and interviewing and testing dispatch applicants. She recommends whom to hire as dispatchers to Human Resources. She receives complaints from field personnel, customers and co-workers, and assists in resolving such disputes.[8]

[6] The parties stipulated and I find that Llamas is a supervisor under Section 2(11) of the Act, because he responsibly directs employees. Inasmuch as the record supports the parties' stipulation, I shall exclude Llamas on that basis.

[7] The parties stipulated, the record does not indicate otherwise, and I find, that Unangst has the authority to assign work to others and, on that basis, is a supervisor within the meaning of Section 2(11) of the Act and should be excluded from any unit found appropriate.

[8] Based on the undisputed record evidence of Palmer's duties as described, the parties stipulated, and I find, that she is a supervisor under Section 2(11) of the Act and, therefore, should excluded from any unit found appropriate.

d. Nursing Department

The Nursing Department is headed by a Director of Nursing who, according to the Employer's organizational chart, reports to Rogers and is responsible for the Employer's full-time and part-time Registered Nurses. However, the record discloses that the Director of Nursing position has been vacant for an indefinite period of time and that the duties of the Director of Nursing are performed by the Employer's two full-time nurses. Nurses work alongside EMTs and Paramedics in providing scheduled, non-emergency medical transportation of patients requiring a higher level of medical care while in transit. They do not respond to emergency or 911 calls.

B. The Pending Acquisition

Like the Employer, American Medical Response (AMR) is a franchised emergency ambulance transportation provider servicing the Las Vegas area.[9] The primary geographical emergency response areas for the Employer and AMR have been delineated and assigned by Clark County Business Licensing, although there is some overlap for exigencies and mutual aid. Such geographical boundaries, borders, or restrictions do not exist with respect to the non-emergency services (also referred to as "private retail business") provided by the Employer and AMR. At the time of the hearing, a stock purchase agreement between Nevada Red Rock Ambulance, Inc., a wholly-owned subsidiary of AMR, and the Employer was pending. The closing date for this transaction, according to Henry, has been changed numerous times. Upon finalization of the agreement, the Employer will be owned by Nevada Red Rock Ambulance, Inc.; however, it is anticipated that both the Employer and AMR will continue to operate under their respective names in the Las Vegas area.

It is also anticipated that, after the transaction is completed, certain back office functions, such as accounting, insurance and payroll, and administration of benefits, will be merged. The Employer's benefits, however, run through the end of the year and may not change even after that time. After the transaction is completed, there will also be one common general manager (Wilson), but it is anticipated that each entity will maintain its own operations, managers, and local staff. In addition, while there have been some discussions about combining the nurse corps of the two entities after the acquisition is finalized, no decisions have been reached. Each entity is expected to maintain its separate facilities and dispatch offices. The primary "911" response areas/districts will remain the same. There are no plans to provide common employee policies or a common employee handbook. New hires of each entity will not go through the same orientation, and employee disciplinary issues will remain separate.

Similarly, it is anticipated that each entity will maintain separate Fleet departments with shops at their respective facilities, and that Fleet employees of one entity will not service vehicles for the other. There have, however, been some discussions about using a common fleet maintenance software package.

[9] The record reflects that the Employer and AMR are the only franchised emergency transportation services providers in the greater Las Vegas market.

C. Community of Interest Factors Among Classifications

The Employer's business operates 24 hours a day, 7 days a week. All of its full-time employees, with the exception of nurses, receive health, dental and vision insurance, 401(k) plan, Employee Assistance program, two weeks vacation time, one week sick time, "Wellness Dollars" (whereby by the Employer pays up to $200 for full-time employees who enroll in a program that will improve or maintain the employee's health, which can also be used for clinical education), short-term and long-term disability benefits, life insurance, and supplemental insurance. Part-time employees are eligible to participate in the Employer's 401(k) plan, holiday pay, and unemployment and workers' compensation insurance.

All full-time and part-time employees accrue seniority, which is calculated by "company seniority" and "classification seniority." Full-time employees accrue four points seniority per month, two points of which are counted as company seniority and two points of which are counted as job classification seniority. Part-time employees accrue seniority in a similar fashion. i.e., one point per month for company seniority and one point per month for job classification seniority. Whether full-time or part-time, employees carry their company seniority if they transfer to another job classification, but lose their job classification seniority.

All full-time and part-time employees attend a 5-day orientation program, regardless of job classification, during which they are provided an orientation outline and employee handbook. In addition, all full-time and part-time employees log in on a computer keyboard located in the Employer's "crew room." Paychecks are distributed at the Employer's main office. All employees also have access to an employee break room, located downstairs in the Employer's main building. They also have access to the same locker area, game area, and workout area, all of which are located in the Employer's main building. All Employees are permitted to use the car wash area located at the main office for personal use while off duty. All employees are issued ID cards and uniforms, and attend the same orientation program. Finally, all employees are invited to attend or participate in extracurricular activities and social events, such as competitions, games, picnics, and the like, sponsored by the Employer, which take place at the same time at a single location.

1. EMTs and Paramedics

The Employer employs a total of approximately 300 full-time and part-time EMT Basics, EMT Intermediates, and Paramedics in its Operations and Specialty Services Departments. Only EMT Intermediates and Paramedics work in the Operations Department and respond to the emergency or "911" calls. In contrast, EMT Basics, EMT Intermediates, and Paramedics work "Special Events" in the Specialty Services Department. Thus, although EMT Intermediates and Paramedics can work in either the Operations Department or Special Events, EMT Basics work only in Special Events.

Regardless of the division to which they are assigned, all EMTs and paramedics have to possess the requisite medical certification for their respective job classifications. In this connection, all EMT Basics, Intermediates, and Paramedics must have Clark County-issued EMT certifications for their respective levels (also referred to as "green cards") and CPR certification. The record reflects that Paramedics must also have ACLS, PHTLS, and PALS

Cards; however, the record fails to define these additional accreditations, or how or from whom they are issued.

When the Employer solicits applications for EMT Basics, Intermediates, or Paramedics, it does not specify for which division it is seeking applicants. All applicants complete the same application form, on which the applicant designates the level of position he or she is seeking (Basic, Intermediate, or Paramedic). The Employer's Clinical Department gives all EMT and paramedic applicants a written test of their medical knowledge for their respective skill levels, and an oral scenario test, which involves sitting down with a person or persons, who quiz the applicant on his or her medical knowledge and how that person might respond to a call. The Employer Human Resources department gives all EMT and Paramedic applicants a physical fitness test at the Employer's office to ensure that the applicant is physically fit enough to perform the job requirements. All EMT and Paramedic applicants must also pass a lift test called the "Kelly Hawkins" test. Human Resources personnel also conduct an interview with each EMT and Paramedic applicant. After the application/testing and interview process, the Employer decides which applicants will receive employment offers as well as the department to which the applicant will be assigned – Operations or Special Events.

Paramedic applicants who have recently moved to Clark County or have only recently graduated from paramedic coursework are assigned to a "field training officer" as a condition of completing their paramedic training class. Field training officers, who are themselves rank-and-file paramedics, are trained on how to teach and coach, and as such, show the newly-hired applicants the ropes and help them translate book knowledge into street knowledge. Thus, three employees typically ride in an ambulance (EMT Intermediate and Paramedic or two Paramedics *and* the student). Such training is often conducted by the field training officer on behalf of the training institution and in conjunction with the Employer's clinical directors; however, neither the field training officers nor the Employer's clinical staff make determinations about whether the students receive their permanent certifications. The parties stipulated that being a qualified field training officer does not otherwise disqualify paramedics from inclusion in the bargaining unit.

Whether assigned to the Operations Department or Special Events, all EMTs and Paramedics must be able to – and in practice do – drive the Employer's ambulances. However, Special Services and Events employees drive only "400 trucks," which are considered non-emergency vehicles in a facility ambulance business. In the Employer's operations, the 400 trucks are used for non-emergency, inter-facility transports, approximately four or five times per day.[10]

Special Events client relations and the scheduling of special services and events are handled by Special Events Administrator, Llamas, along with Calabrese. There are approximately 58 full-time and part-time EMT Basics, EMT Intermediates, and Paramedics

[10] At the hearing, the Employer's sole witness, Henry, testified that the Employer has 44 ambulances and referred to non-emergency ambulances as "400" "trucks." She further testified that the Special Events employees drive only the "400" ambulances. However, the Employer's website states, "We have 35 front-line 911 units and 12 ILS/CCT/Special Event units." It further states, "Our fleet is mostly McCoy-Miller Type III modular ambulances. We run four Type II ambulances in the ILS/Special Events division. We have two bariatric patient (over 400 lb) capable ambulances. Our four Supervisor and Critical Care Transport units are Wheeled Coach E450 Type III long wheelbase modular ambulances."

who work in Special Services and Events, although the record does not delineate how many work Special Services versus Special Events, or if they work both functions. As previously noted, Special Services employees work in pairs and provide pre-scheduled, non-emergency medical transportation of patients from one location to another. Special Events employees provide pre-scheduled standby medical services, including staffing first aid rooms, for special events such as concerts, boxing matches, car races, and other large venues. During the week, the Employer staffs approximately 10 special events per day; on the weekends, such special events number between 20 and 30 per day. According to Henry, Special Services and Events employees work anywhere from 8 to 14 hours in a shift and are paid overtime after 40 hours worked in a week.

As noted above, Operations employees (also referred to as "field employees") are comprised only of EMT Intermediates and Paramedics. Whereas Special Services and Events employees use non-emergency, inter-facility "400" ambulances, Operations employees run both non-emergency and emergency calls. In addition, unlike Special Services and Events employees, Operations employees typically work 12-hour shifts and earn overtime pay after 8 hours.

After orientation, new Operations and Special Services EMTs and Paramedics (as well as Dispatchers) are assigned to a "preceptor," who takes the new employee into the field where they practice driving, map reading, and hospital codes. Preceptors are fully-certified EMT Intermediates or Paramedics who ensure that the new employee is acquainted with the Employer's policies, procedures and driving, as well as with hospital codes and matters such as where to park at a hospital or other facility.

The Employer has a 16-step pay scale for EMT Intermediates and a separate 16-step pay scale for Paramedics, regardless of the department in which they work. The pay scale for EMT Intermediates ranges from $9.80 per hour to $17.67 per hour; the pay scale for Paramedics ranges from $14.53 per hour to $25.65 per hour. The record does not disclose pay rates for EMT Basics.

The record establishes that Special Services and Events EMT Intermediates and Paramedics frequently transfer to the Operations Department, either in their existing classification or from an EMT Intermediate classification to that of Paramedic. EMT Basics cannot transfer to the Operations Department until they become certified as EMT Intermediates. The record also shows that, on a less frequent basis, Operations EMTs and Paramedics transfer to Special Services and Events. Moreover, the Employer pays for EMT and Paramedic training to maintain or upgrade certification.

2. Support Services Employees

According to Henry, the Support Services department is a place where employees can start in the ambulance business as uncertified personnel, and become somewhat familiar with medical equipment. Support Services employees, referred to interchangeably at the hearing as "supply technicians" and "suppliers," are non-certified personnel who re-supply and re-stock ambulances, and "make ready" vehicles and equipment for oncoming crews. More specifically, when the ambulances come in at the end of a shift or run, the ambulance crew hands the suppliers re-stock sheets, which the suppliers rely on to re-stock the ambulance. Re-

stocking the ambulance includes loading on new gear, loading on new bags, going through a checklist of readiness procedures, and handing off the truck to the next ambulance crew. Suppliers also help clean the ambulances, and are required to know how to operate all of the equipment on the ambulance. The Supplier classification is the only job classification that has no certification requirements.

Although Support Services employees complete an application and are interviewed during the hiring process, they are not given a medical test, apparently because they are not certified personnel. Once hired, however, they participate in the same 5-day orientation provided all other new employees. There is no evidence of the rates of pay or hours of work for full-time or part-time Support Services employees. However, Henry testified that they sometimes acquire EMT certifications and get more involved in the ambulance business, although she did not provide the details of that process.

Among the 14 full-time and part-time suppliers are three "leads." Henry, who is the only witness who testified regarding these leads, could not identify the three leads by name and testified that they are not identifiable just by looking at them. In this regard, they do not wear anything that would distinguish them from any other supplier but, when Tierney is not present, they are "someone kind of in that shift that, if there's a question or issue that arises, it's a person they can go to." The parties agree, there is no evidence to the contrary, and I find that to the extent the Support Services leads perform supervisory functions, they do so sporadically and thus are not supervisors within the meaning of the Act and should not otherwise be excluded from any unit found appropriate.

3. Dispatch Employees

As described previously, the Dispatch Department is run by Laura Palmer, Dispatch Supervisor, who reports directly to Rogers. There are approximately 14 full-time and part-time dispatchers, all of whom report to Palmer.

Applicants for Dispatcher positions must hold an Emergency Medical Dispatch (EMD) certification, and have to pass a "familiarization" test and a typing test. Dispatchers, like EMTs and Paramedics, are assigned a preceptor who indoctrinates them to the operations of the Employer, particularly the Employer's policies, procedures and driving, as well as with hospital codes. Dispatchers wear the same uniforms as EMTs, Paramedics, suppliers, and nurses, and work in an office, referred to as the Dispatch Center, at the Employer's facility where they receive incoming emergency or "911" computer and phone calls, determine and dispatch the closest available ambulance to respond to the call, and give medical "pre-arrival instructions" until the ambulance crew arrives. Dispatchers' EMD certifications provide them with the medical knowledge and skill to provide such emergency medical "pre-arrival instructions."

A number of dispatchers are also certified EMTs who, on occasion, will work in Field Operations or Special Events. In this regard, Henry testified that some Dispatchers transferred from the Operations or Special Services/Events departments, and that a number of Dispatchers maintain EMT certifications. The record reflects that during the three months preceding the hearing, several Dispatchers (presumably those with the appropriate certifications) worked sporadically (an occasional shift or event) as EMTs or Paramedics in the Operations or Special Services/Events departments. No further explication regarding the details of this work were

provided, such as whether the Dispatchers in question volunteered to work outside their classification, or whether they were directed to do so and at whose direction, or what hourly rates they were paid on those occasions.

Dispatchers work 12-hour shifts and their hourly rates of pay are governed by a 16-step pay scale, similar to those for all EMT Intermediates and Paramedics, that ranges from $13.36 per hour to $23.61 per hour. Like the Operations or "field" EMT Intermediates and Paramedics, Dispatchers earn overtime pay after eight hours of work.[11]

4. Nurses

The Employer employs between six to ten full-time and part-time nurses. Whether full-time or part-time, all must be registered nurses with additional certification in Emergency Medical Services (EMS). They work with non-emergency EMTs and paramedics to provide inter-facility transportation of patients who require medical attention, particularly the administration and monitoring of medications, that is beyond the certification and competence levels of even the most highly-skilled paramedics. Nurses wear the same uniform as EMTs, paramedics, dispatchers, and suppliers, although the nurse's uniform includes a patch that states "EMS RN." The record discloses that the nurses work 12-hour shifts and earn $35 per hour, with overtime paid after 40 hours worked each week. The record is somewhat inconsistent regarding the number of full-time nurses the Employer employs. Henry testified that there are two full-time nurses, but the Employer's records reflect only one full-time nurse worked during the three months prior to the hearing. In contrast to all other full-time employees, a full-time nurse does not accrue sick or vacation time; rather he or she is granted a PTO (personal time off) bank of two weeks.

The full-time nurse(s) perform the duties of the Director of Nursing which, according to Henry, consists primarily of working with the clinical department on "quality assurance" of the nursing department. There is no record evidence that the part-time nursing staff possess any of the indicia of a statutory supervisor.

5. Fleet Employees

Fleet employees are the only group of employees who do not ultimately fall under the responsibility of Rogers. The record contains no evidence of their wages, shifts and/or hours of work. They wear uniforms that are different from the uniforms worn by employees in every other classification at issue in this case. Moreover, the evidence discloses little interaction and no interchange between Fleet employees and employees in other classifications. The record indicates that Fleet employees work only on the Employer's vehicles and, unlike employees in other classifications, never on or with medical equipment. Also unlike employees in other classifications, Fleet employees are required to possess some sort of mechanical certification.

[11] The record reflects that the Employer also has a 5-step pay scale for "Call Takers" that ranges from $9.39 per hour to $10.98 per hour; however, there is no other evidence regarding "Call Takers," and neither party raised these employees, if they indeed exist, as an issue in this proceeding.

D. Duties and Responsibilities of Operations Supervisors, Operations Field Supervisors, Special Events Supervisors and Associate Leads

The Employer employs eight Operations/Field supervisors in its Operations Department and three Special Events supervisors in Special Events. All of these supervisors are either EMT Intermediates or Paramedics. They wear patches on their uniforms that identify them as supervisors, and they drive special ambulances that are designated "Supervisor" on the outside of the vehicle. The Employer provides them with "supervisor" phones, the numbers to which are provided to non-supervisory employees to contact as first-line supervisors. Operations/Field supervisors and Special Events supervisors regularly attend supervisors' meetings, and are designated in the Employer's payroll system as supervisors. They are paid a higher rate of pay in accordance with a 14-step pay scale that ranges from $17.10 per hour to $28.47 per hour.

The Employer contends that it has to have certain individuals designated as "supervisor" as a requirement of its franchise agreement. However, the reasons proffered for this requirement were vague, and the franchise agreement was not offered into evidence. Regardless of this contention, Henry testified that there are four Operations supervisors (Mike Whitehead, Kady Dabash, Randy Clickner, and Rob Whitaker) and four Field supervisors (Tiffany Lopardo, Augie Corrales, Dan Shinn, and Mark Eschy), and that one of each works on every shift.[12] According to Henry, the Field supervisor serves as a "back-up" supervisor in the event that the Operations supervisor is unavailable (i.e., is on a call and cannot take phone calls), which apparently occurs fairly frequently. In these circumstances, the Field Supervisor performs the same duties as the Operations supervisor. Henry estimated that Operations supervisors spend 20% of their time, and Field supervisors 15% of their time, on their supervisory duties.

Henry further testified that, at the start of the shifts, Operations supervisors make scheduling decisions "on the fly," including "moving people around," but that they do not make permanent schedule changes. Operations supervisors "assign directions" as to what employees will do during their shifts, and frequently assign the "FTE," which Henry defined as, just an extra spot on the schedule. Like an extra person because we know somebody's going to call off sick or something's going to happen and so the FTE is like, if the schedule's full, they're extras, so whoever calls in – they come to work and we say so-and-so didn't show up or go there.

There being no other evidence regarding the "FTE," it is unclear from Henry's testimony whether the "FTE" is one person who shows up at the Employer's facility at the beginning of each shift in the event of an absence, or whether it is a designation given to a number of employees who are on call in the event of an absence. Ultimately, Henry testified that both Operations and Field supervisors can assign and responsibly direct other employees.

Operations or Field supervisors are the first to be contacted in the event of an accident involving an ambulance or an on-the-job injury of an employee. In those circumstances, the

[12] The only other two witnesses at the hearing, paramedics presented by the Petitioner each of whom has worked at the Employer for several years, testified that they were only familiar with the term "Field Supervisor" and that, prior to the hearing, had never heard of the term "Operations Supervisor."

Operation/Field supervisor conducts an investigation, which involves taking pictures and interviewing people involved and other witnesses, sending employees to take drug tests, and completing an accident report. Likewise, Operations/Field supervisors are the people to whom hospital personnel, fire department personnel, or members of the public are referred when they ask an EMT or Paramedic for the name and number of their supervisor. Typically, the supervisor handles the situation without it escalating further.

The Employer maintains that neither Operations nor Field supervisors are involved in disciplinary actions. However, Henry testified that Operations/Field supervisors can make recommendations on discipline of other employees. In addition, the evidence establishes that the Employer has a progressive disciplinary procedure as follows: the first offense results in a courtesy counseling; the second offense results in a verbal warning with documentation; the third offense results in a written warning; the fourth offense results in a 1-day suspension; the fifth offense results in a 3-day suspension; and the sixth offense results in termination. The evidence establishes that Operations, Field, and Events supervisors issue courtesy counselings.

Henry testified that the three Special Events supervisors, Sara Duarte, Glen Simpson, and Glen Glazier, function in the same way that Field supervisors function. In this connection, Special Events supervisors receive, investigate and resolve complaints, issues, and problems. They also investigate accidents, on-the-job injuries, can grant an employee's request to leave work early, and issue courtesy counselings.

The record reflects that there are three Associate Leads (Julie Walters, Eric Dievendorf, and Joe Pitka) who fill in for Field supervisors during their absences on a sporadic basis. Although they receive a higher rate of pay on those occasions when they substitute for Field supervisors, they do not assume the full duties of the Field supervisor. Specifically, they do not have the authority to assign or responsibly direct employees, or issue courtesy counselings or otherwise get involved in employee discipline. If they encounter complaints, issues or problems, rather than investigate and resolve them, they bring them to the attention of the Operations supervisor or Field supervisor upon their return.

E. Jennifer Calabrese

Jennifer Calabrese is a paramedic in the Operations department who is married to Mark Calabrese. According to witness Jeffrey Keenan, another paramedic, Jennifer Calabrese was hired approximately three years ago and, at that time, was given a new shift that, unlike other new shifts, was not put up for bid by seniority. According the Keenan, the shift given to Jennifer Calabrese was a "nice" shift. The Petitioner contends that the shift given to Jennifer Calabrese constitutes special treatment by the Employer of an employee/relative of management and, on that basis, Jennifer Calabrese should be excluded from any unit found appropriate. The Petitioner offered no other evidence in support of its position.

F. Part-time Employees

The Employer defines a part-time employee as one who does not have a regularly assigned shift. There is no maximum number of hours or shifts a part-time employee can work, but there is a minimum that has been established so that the employee can keep current with the policies and how the system works. That minimum is two shifts per month or six shifts in a

quarter for Operations employees, and three events per month for Special Events employees. The record does not disclose any standards for part-time status for Support Services employees, Dispatch employees, or nurses. However, the record establishes that the Fleet Department employs only full-time employees.

The record establishes that during the approximately 10-week period from April 1, 2007, to June 15, 2007, the 56 part-time Operations EMTs and Paramedics worked as few as 7.25 total hours and as many as 572.75 total hours; the 6 part-time Dispatchers worked as few as 67.75 total hours and as many as 446.5 total hours; the 2 part-time suppliers worked as few as 128.75 total hours and as many as 312.75 total hours; the 24 part-time Special Services/Events EMTs and Paramedics worked as few as 33.25 total hours and as many as 407.25 total hours; and the 5 part-time nurses worked as few as 24.5 total hours and as many as 384 total hours. The record further establishes that the extreme variations in the ranges of total hours worked by the 93 part-time employees in these classifications is present in all of the classifications and not unique to one or two classifications.

G. Analysis and Determinations

1. Neither the pending acquisition nor the collective-bargaining agreement between Nevada Service Employees, Local 1107 and AMR bars the Petition

The Board's longstanding policy is that it will not conduct an election where permanent changes to the scope and composition of an otherwise appropriate unit are imminent and certain. *See, e.g., Larson Plywood Company*, 223 NLRB 1161 (1976) (permanent layoff); *Hughes Aircraft Co.,* 308 NLRB 82 (1992) (same); *Massachusetts Electric Company,* 248 NLRB 155, 157 (1980) (merger/consolidation of facilities); *Witteman Steel Mills, Inc.*, 253 NLRB 320 (expansion). Although there is no bright-line test in making that determination, the Board looks to the totality of circumstances and requires that an employer's stated intention to expand, contract or cease operations be based on evidence that is more than speculative. See, e.g., *Canterbury of Puerto Rico, Inc*. 225 NLRB 309 (1976).

Although the pending acquisition appears from the record as a whole to be certain (the date of which, however, is still uncertain), the specifics of the operations of the Employer and AMR after the acquisition is finalized are too speculative and theoretical to warrant dismissal of the petition. As discussed above, Henry testified that there have been no decisions regarding merging or consolidating the operations of the two facilities, nor have there been any decisions made regarding the differences in wages, benefits, seniority and other terms and conditions of employment between employees at the two facilities. Indeed, the record evidence is insufficient to determine what, if any, differences exist in the wages, benefits, seniority and other terms and conditions of employment between employees at the two facilities. Moreover, while Henry testified that the acquisition would occur at some indefinite point in the future, the record indicates that the Employer has committed no funds, signed no documents, established no firm timeline, and made scant other arrangements for permanent consolidation. Additionally, the evidence discloses no external pressure on the Employer to merge its facility with AMR's facility, and the collective-bargaining agreement between the Intervenor and AMR contains no language requiring AMR to consolidate its facilities.

It is incontrovertible that a single-facility unit is presumptively appropriate for collective- bargaining, unless it has been so effectively merged into a more comprehensive unit, or so functionally integrated, that it has lost its separate identity. *Dattco, Inc.,* 338 NLRB 49 (2002); *New Britain Transportation Co.,* 330 NLRB 397 (1999); *Red Lobster*, 300 NLRB 908 (1990). "The party opposing the single-facility unit has the heavy burden of rebutting its presumptive appropriateness." *Trane, Inc.,* 339 NLRB 866 (2003); *J&L Plate Inc.*, 310 NLBR 429 (1993). To determine whether the presumption has been rebutted, the Board considers factors such as central control over daily operations and labor relations, including the extent of local autonomy; degree of employee interchange; similarity of skills, functions and working conditions; past bargaining history; and physical or geographic proximity of locations. *Cargill, Incorporated*, 336 NLRB No. 118 (2001), citing *New Britain Transportation Co.*, 330 NLRB No. 57 (1999). *See also e.g., J & L Plate, Inc.,* 310 NLRB 429 (1993); *Welsh Co.,* 146 NLRB 713 (1964).

I find the Intervenor, which has raised the single facility issue, has not met its burden of establishing that the petitioned-for, single facility unit is inappropriate. As discussed above, although the acquisition of the Employer by AMR appears definite, the merger of operations at their separate facilities is uncertain and wholly prospective. Thus, it is inappropriate to evaluate whether, if a merger were to occur, the identities of the Employer's employees and AMR's employees would be separate or integrated. At this time, when the acquisition has not occurred and the operational details of the two facilities after the acquisition are purely speculative and theoretical on the part of the Intervenor, I find that a single-facility unit is *an* appropriate unit.

2. Specialty Services EMTs, Paramedics, and Dispatch employees share a community of interest with the petitioned-for unit

Section 9(b) of the Act provides that "the Board shall decide in each case whether, in order to assure to employees fullest freedom in exercising the rights guaranteed by the Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, or subdivision thereof." A union is not required to seek representation in the most comprehensive grouping of employees unless "an appropriate unit compatible with that requested does not exist." *P. Ballantine & Sons,* 141 LRB 1103 (1962). In *Pacemaker Mobile Homes,* 194 NRLB 742, 743 (1971), the Board explained that when no other labor organization is seeking a unit larger or smaller than the unit requested by the petitioner, the sole issue to be determined is whether the unit requested by the petitioner is an appropriate unit. In addition, although the Board will "consider a petitioner's desires relevant," this will "not, however, obviate the need to show [a sufficient] community of interest on the facts of the specific case." *Airco, Inc.,* 372 NLRB 348 n.1 (1984).

The Board has historically found separate departmental units appropriate when there is no showing of a more comprehensive bargaining history, no other labor organization seeks to represent the same employees in a more comprehensive unit, and where it is established that the petitioned-for employees have a community of interest separate and apart from other employees. *Macy's West, Inc.,* 327 NLRB 1222, 1228 (1999); *American Cyanamid Co.,* 131 NLRB 909 (1961). In determining whether the requisite community of interest among employees exists, the Board looks to such factors as a common interest in wages, hours, and other working conditions; common supervision; degrees of skill and common functions;

frequency of contact and interchange with other employees; and functional integration. *Franklin Mint Corp.,* 254 NLRB 714, 716 (1981). Moreover, the Board will find a limited group of employees to be an appropriate unit, despite some degree of functional integration with a broader group, where the employees are separately supervised, possess skills unique to their classification, receive the highest hourly wage, are assigned work in a different manner, and where transfers are infrequent. See *Ore-Ida Foods,* 313 NLRB 1016, 1019 n.3 (1994).

The Board has held that this analysis applies to ambulance service providers. In *Lifeline Mobile Medics, Inc*., 308 NLRB 1068 (1992), the Board found that an ambulance service is a health care institution under Section 2(14) of the National Labor Relations Act. In *Park Manor Care Center*, 305 NLRB 872 (1991), the Board held that the appropriate test for determining the appropriate unit in a nonacute care health care institution is the empirical community of interest test, in conjunction with the factors considered relevant by the Board in its rulemaking proceedings on *Collective Bargaining Units in the Health Care Industry*, 284 NLRB 1528 (1988), and 284 NLRB 1580 (1989).

In the present case, there is no showing of a more comprehensive bargaining history and there is no other labor organization seeking to represent the same employees in a more comprehensive unit. Therefore, the next issue to be examined is whether the petitioned-for employees have a community of interest separate and apart from other employees. *Macy's West, Inc.*, supra. As discussed more fully below, I conclude that the answer to this question is no.

By its petition, the Petitioner initially sought an election in a unit comprised of the Employer's "EMTs, Paramedics, and Suppliers." Thereafter, at the hearing, the Petitioner clarified the unit it is seeking to include all full-time and part-time EMTs, Paramedics, and suppliers employed by the Employer at its 9 West Delhi Avenue facility located in North Las Vegas, Nevada, but excluding full-time and part-time employees employed in Special Services and Events, dispatchers, nurses, and mechanics employed by the Employer at the same location. Stated otherwise, the Petitioner seeks to represent a unit comprised of EMTs and Paramedics employed only in the Employer's Operations Department, and suppliers who work in the Employer's Special Services and Events Department. The Employer, in contrast, contends that the only appropriate unit includes these classifications, plus the Special Events EMTs and paramedics (including the Operations Supervisor, Field Supervisor, and Associate Lead), nurses, dispatchers, and mechanics.

Contrary to the Petitioner's assertion, the Operations Department EMTs and Paramedics do not share a community of interest with the suppliers that is different from other employees at the Employer's facility so as to constitute an appropriate unit. Specifically, the EMTs and Paramedics sought by the Petitioner work in the Operations Department under Tucker's domain, and are specially trained and certified personnel who provide emergency medical services "in the field," that is, not at the Employer's facility. In contrast, the suppliers are non-certified employees who work in the Special Services Department under Calabrese's domain, provide no medical services to patients, and perform all of their duties at the Employer's facility. Although there is some interaction between these two groups of employees, there is no evidence of any permanent or temporary interchange among them. Moreover, while there is evidence of the wage rates applicable to the Operations EMTs and Paramedics, there is no evidence of the wage rates of the suppliers. In sum, the evidence does not establish that the

employees in the classifications sought by the Petitioner share common supervision, wage rates, interchange, or same degrees of skill and functions separate and distinct from other employees. Indeed, the evidence establishes quite the opposite, to wit, that the employees in the petitioned-for unit do not share a sufficient, if any, community of interest in view of their duties, functions, skills, lack of interchange, separate supervision, and other terms and conditions of employment to constitute an appropriate unit. Although a petitioner's desires are a relevant consideration in determining the appropriateness of a unit, the Petitioner's desires here are not controlling inasmuch as I conclude that the petitioned-for unit appears to be an arbitrary grouping of employees based solely on the Petitioner's extent of organizing. See *Metropolitan Life Insurance Co. v. NLRB*, 380 U.S. 438 (1965); *Motts Shop Rite of Springfield*, 182 NLRB 172 (1970).

In contrast, contrary to the Petitioner's assertion, but in agreement with the Employer's position, I find that all of the Employer's EMTs and paramedics – both in the Operations department and in the Special Services and Events department – share an overwhelming community of interest such that they must be included in a single unit. The uncontroverted evidence establishes that the Employer employs EMTs and Paramedics in its Operations Department as well as in its Special Services and Events Department. Although these two groups of EMTs and Paramedics work in different administrative branches of the Employer, and therefore do not share common supervision, they possess a strong community of interest in other factors to be considered. In this connection, all EMTs and Paramedics, regardless of their placement in the Employer's organizational structure, have the same or similar medical training and certification; are subject to the same hiring processes involving scenario enactments, physical fitness tests, and written medical tests; perform the same or similar medical services to the public "in the field" or away from the Employer's facility; operate (or must be able to operate) the Employer's ambulances; are subject to the same pay scale; are eligible for Employer-paid certifications training, and have frequent interaction as well as permanent interchange. Based on these factors, I conclude that all of the Employer's EMTs and Paramedics share an overwhelming community of interest, notwithstanding their separate supervision, and EMTs and Paramedics from both groups must be included in the unit found appropriate herein. See *Lifeline Mobile Medics, Inc.*, supra.

Similarly, again contrary to the Petitioner's assertion, but in agreement with the Employer's position, the record demonstrates that the Employer's dispatchers share an overwhelming community of interest with the petitioned-for unit. As was the case in *Lifeline Mobile Medics*, supra, the dispatchers are thoroughly functionally integrated with the Operations EMTs and paramedics. The calls for medical assistance are received by the dispatchers, and are assigned to the Operations EMT and paramedic crews. The EMTs and paramedics cannot complete their daily assignments without the active involvement of the dispatchers. Moreover, the dispatchers share common skills, abilities and educational background with the EMTs and paramedics. The record evidence shows that the dispatchers must possess EMD licenses and many possess EMT or paramedic certifications, and that on occasion, dispatchers work as EMTs or paramedics in the field. Moreover, by virtue of their EMD licenses, dispatchers provided medical "pre-arrival instructions" to the caller while awaiting the EMT/paramedic crew. The EMT, paramedic, and dispatcher positions are staffed 24 hours per day, 7 days per week. As in *Lifeline Mobile Medics*, "[i]t is apparent that the nature of the dispatching task is intimately related to, and in some respects a part of, the EMTs duties." *Lifeline Mobile Medic, Inc.*, supra at 1069. Therefore, based on the integrated nature of the work, high degree of contact, and similar skills and

abilities, I find that the dispatchers must be included in the bargaining unit with the petitioned-for Operations EMTs and paramedics.

For reasons discussed in detail below, however, I do not find appropriate the unit proposed by the Employer, which would include professional and statutorily-excluded supervisory employees, as well as Fleet employees who are not sought by the Petitioner or any other labor organization, and who constitute a homogeneous grouping of craft employees with a community of interest sufficiently separate and distinct from other employees as to constitute a separate appropriate unit. See *S.J. Graves & Sons*, 267 NLRB 175 (1987); *Dick Kelchner Excavating Co.*, 236 NLRB 1414 (1978); *R. B. Butler Inc.*, 160 NLRB 1595 (1966).

3. Nurses are professional employees and should be excluded from the petitioned-for unit

The Board has consistently held that registered nurses constitute a well-defined professional group whose training, skill level, and duties differ from those of other employees. *Centralia Convalescent Center*, 295 NLRB 42 (1989); *Consolidated Vultee Aircraft Corporation*, 108 NLRB 591 (1954). In the instant case, the record establishes that full-time and part-time registered nurses have graduated from accredited nursing schools, and that their course of study resulting in their nursing degrees qualifies them to perform certain medical functions that even the most highly-skilled and certified paramedics are not permitted to perform. In addition to the requirement that the nurses possess licenses as registered nurses, they must also be certified in Emergency Medical Services (EMS). They are paid $35 per hour, considerably higher than the highest hourly rate of the EMTs or Paramedics, and they are the only employee classification that receives a PTO (Personal Time Off) bank of two weeks. Unlike EMTs and Paramedics, the Employer does not pay for the continuing education classes and/or training that nurses are required to complete in order to maintain their nursing licenses. In addition, although nurses are skilled and capable of performing EMT and Paramedic duties, they are only scheduled to work when a patient requires the higher level of medical care that the nurses are uniquely qualified to perform. Accordingly, I find that the Employer's full-time and part-time nurses are professional employees. Section 9(b)(1) of the Act provides that professional employees cannot be included in a non-professional unit without their consent. Inasmuch as the Petitioner does not seek to include the nurses in the unit, I shall exclude them from the unit found appropriate herein. See *Centralia Convalescent Center*, supra, and cases cited therein.

Because I have excluded the registered nurses from the unit as professional employees, it is not necessary for me to address Petitioner's contention that the Employer's two full time nurses should be excluded from the unit because they are supervisors within the meaning of the Act.

4. Fleet Employees do not share a sufficient community of interest with the petitioned-for unit and constitute and separate and distinct group of craft employees

Although the Petitioner does not seek to include the Fleet employees in the bargaining unit, the Employer contends this group of employees must be included in any unit found appropriate. The Employer contends that the work performed by Fleet employees is integral to

the performance of the EMTs' and Paramedics' duties, and that Fleet employees share an "undeniable" community of interest with the EMTs, Paramedics, and suppliers. Although I agree that the Fleet employees are an important facet to the Employer's operations as a whole, the record convinces me that they are not functionally integrated with the EMTs, Paramedics, or other classifications at issue in this proceeding. Moreover, I conclude that the Fleet employees constitute a homogenous group of craft employees, whom neither the Petitioner nor any other labor organization seeks to represent, that share a community of interest sufficiently separate and distinct from other employees so as to constitute a separate appropriate unit. See *S.J. Graves & Sons*, supra.

In support of this conclusion, I rely on the fact that the Fleet Department is a stand-alone department within the Employer's organizational structure that, unlike other departments, employs only full-time employees. The record further indicates that Fleet employees possess some form of mechanical certification and perform mechanical work only on the Employer's fleet of ambulances and not on any of its medical equipment. Fleet employees work in their own garage area of the Employer's facility and have little interaction with other employees. While the record establishes that Fleet employees are separately supervised, possess skills unique to their classification, and work only full-time schedules, it fails to divulge any information regarding rates of pay, hours of work, or transfers of Fleet employees. See *Ore-Ida Foods,* supra. Accordingly, based on all of the record evidence regarding Fleet employees' terms and conditions of employment, as well as the absence of evidence that might otherwise show some community of interest with other employees, I find that the Fleet employees do not share a sufficient community of interest with other employees to warrant their inclusion in the bargaining unit found appropriate herein.

5. Supervisory status of operations supervisors, field supervisors, special events supervisors, and Associate Leads

Supervisors are specifically excluded from the Act's definition of "employee" by Section 2(11) of the Act which defines a "supervisor" as:

> any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Under this definition, individuals are statutory supervisors if: (1) they hold the authority to engage in any 1 of the 12 supervisory functions (e.g., "assign" and "responsibly to direct") listed in Section 2(11); (2) their "exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;" and (3) their authority is held "in the interest of the employer." *NLRB v. Kentucky River Community Care,* 532 U.S. 706, 713, (2001). Supervisory status may be shown if the asserted supervisor has the authority either to perform a supervisory function or to effectively recommend the same. The burden to prove supervisory authority is on the party asserting it. Id. at 711-712

The Board avoids construing supervisory status too broadly because a supervisory finding removes an individual from the Act's protection. *Chevron Shipping Co.,* 317 NLRB 379, 381 (1995). Thus, the Board distinguishes two classes of workers: true supervisors vested with "genuine management prerogatives," and employees such as "straw bosses, lead men, and set-up men" who are protected by the Act even though they perform "minor supervisory duties." *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 280-281 (1974) (quoting S. Rep. No. 105, 80th Cong., 1st Sess., 4 (1947)).

The dividing line between these two classes of workers, for purposes of Section 2(11), is whether the putative supervisor exercises "genuine management prerogatives." Those prerogatives are specifically identified as the 12 supervisory functions listed in Section 2(11) of the Act. If the individual has authority to exercise (or effectively recommend the exercise of) at least one of those functions, 2(11) supervisory status exists, provided that the authority is held in the interest of the employer and is exercised neither routinely nor in a clerical fashion but with independent judgment. *Oakwood Healthcare Inc.*, 348 NLRB No. 37, at 3 (2006); *Croft Metals, Inc.,* 348 NLRB No. 38 (2006); *Golden Crest Healthcare Center,* 348 NLRB No. 39 (2006).

The Board will not normally find supervisory status when the evidence is in conflict or otherwise inconclusive on a particular indicia of supervisory authority. *Kentucky River,* 532 U.S. at 711 (2001); *Franklin Hospital Medical Center,* 337 NLRB at 829; *Crittenton Hospital,* 328 NLRB 879, 882 (1999). However, the Board will confer supervisory status on individuals who possess the authority to "assign," which encompasses the designation of an employee to a certain department or shift, as long as the act of assigning is performed by the asserted supervisor using "independent judgment." *Oakwood*, 348 NLRB No. 37, slip op. at 4, 10. For one or more of the supervisory indicia to be exercised using "independent judgment," the authority must be "independent," meaning "free of the control of others," and it must "involve a judgment," which requires "forming an opinion or evaluation by discerning and comparing data," and the judgment must involve a "degree of discretion that rises above the 'routine or clerical.'" *Id.* slip op. at 8.

In addition, although not dispositive of the issue of supervisory status, non-statutory indicia can be used as background evidence on the question of supervisory status. See *Training School of Vineland*, 332 NLRB 1412 (2000); *Chrome Deposit Corps.*, 323 NLRB 961, 963 fn. 9 (1997). As the Board has explained, nonstatutory indications of supervisory status, or "secondary indicia," such as higher pay, supervisor to non-supervisor ratios, or attendance at supervisor meetings, may bolster evidence demonstrating that individuals otherwise exercise one of the powers listed in the statute. See *Marian Manor for the Aged and Infirm*, 333 NLRB 1084 (2001); cf. *Ken-Crest Services*, 335 NLRB 777 (2001).

In the instant case, I find that the Petitioner has met its burden of establishing that Operations supervisors, Field supervisors, and Special Events supervisors are supervisors within the meaning of Section 2(11) of the Act, but that it has failed to adduce sufficient evidence to establish that Associate Leads are Section 2(11) supervisors. With respect to Operations supervisors, Field supervisors, and Special Events supervisors, the record reflects that these individuals assign employees to shifts and ambulances "on the fly," which indicates that their judgment in making such assignments is independent and not subject to approval by others. Moreover, the record contains examples of "Courtesy Counselings" having been issued

by these individuals. The Employer's contention that "Courtesy Counselings" are not disciplinary in nature is unavailing where the record establishes that "Courtesy Counselings" are issued at the first step of the Employer's 6-step progressive disciplinary procedure.

Finally, there exist numerous secondary indicia which support my conclusion that Operations supervisors, Field supervisors, and Special Events supervisors are supervisors within the meaning of Section 2(11). First, their compensation is uniformly greater than the employees they supervise. Second, these individuals attend regular supervisory meetings, including those dealing with the Petitioner's organizing campaign. Third, these individuals devote approximately 15% - 20% of their time to their "supervisory" functions; wear insignia designating them as supervisors; drive ambulances marked "supervisor" on the outside; carry "supervisor" phones provided by the Employer; are considered and referred to as supervisors by employees. Finally, if these individuals are found not to be supervisors, Tucker would be responsible for directly supervising in excess of 200 employees and Llamas would be responsible for directly supervising approximately 58 employees. In *Formco, Inc.,* 245 NLRB 127 (1979), the Board found a supervisor-employee ratio of 1:30 to be "disproportionate."

Accordingly, based on the foregoing, and the record as a whole, I find that Mike Whitehead, Kady Dabash, Randy Clickner, Rob Whitaker, Tiffany Lopardo, Augie Corrales, Dan Shinn, and Mark Eschy are Operations/Field supervisors, and Sara Duarte, Glen Simpson, and Glen Glazier are Special Events supervisors within the meaning of Section 2(11) of the Act and shall exclude them from the unit found appropriate herein.

In contrast, I find that the Associate Leads do not possess the requisite authority to confer supervisory status within the meaning of Section 2(11) of the Act. An employee who substitutes for a supervisor may be deemed a supervisor if given supervisory authority when substituting and if the substitution is regular and substantial. *Rhode Island Hospital,* 313 NLRB 343, 348 (1993); *Gaines Electric Company,* 309 NLRB 1077, 1078 (1992); *Aladdin Hotel*, 270 NLRB 838 (1984). However, the sporadic assumption of supervisory duties, e.g., during annual vacation periods or on other unscheduled occasions, is insufficient to establish supervisory authority. *Latas de Aluminio Reynolds*, 276 NLRB 1313 (1985); *Canonsburg General Hospital Association*, 244 NLRB 899 (1979. An individual will be deemed a statutory supervisor only if he or she functions in a supervisory capacity on a regular and substantial basis. Additionally, the Board has found that rotating "supervisors," who at times are in charge of coequal employees, but at other times are subordinate to their coequals, are not supervisors. *General Dynamics Corp.,* 213 NLRB 851, 859 (1974); *Westinghouse Electric Corp. v. NLRB*, 424 F. 2d 1151, 1155-1156 (7th Cir. 1970); Cf. *Wurster, Bernardi & Emmons, Inc.,* 192 NLRB 1049, 1051 (1971). In view of the evidence regarding the duties and functions of the Associate Leads, I conclude that they are not supervisors under Section 2(11) of the Act, and shall include them in the unit found appropriate herein.

6. Eligibility of Jennifer Calabrese

The Petitioner asserts that Jennifer Calabrese, a part-time Paramedic in the Employer's Operations Department and wife of Mark Calabrese, Director of Specialty Services, should be excluded from the bargaining unit based on (1) her marital relationship with a non-owner manager, and (2) a special privilege or benefit that she received as a result of her relationship. In support of its assertion, the Petitioner cites a number of cases including *Allen Services*,

314 NLRB 1060 (1994), and analogizes the facts in this case with the facts in *Novi American Inc.*, 234 NLRB 421 (1978). Contrary to the Petitioner, I find the facts in *Allen Services* more parallel to the facts here and the *Novi American* facts distinguishable.

The only evidence regarding this issue was the testimony of Paramedic Jeffrey Keenan. According to Keenan, when Jennifer Calabrese was hired by the Employer in approximately 2004, she was given a "nice" shift that was not put up for bid by seniority as is the Employer's customary practice for new shifts. Keenan did not explain why he deemed Calabrese's shift as "nice." Moreover, there is no evidence that establishes that the Employer by-passed the bidding procedures when it assigned Jennifer Calabrese her shift *because* of her relationship to Mark Calabrese, or that she has received any special privilege or benefit in the three years since she was hired.

In *Allen Services*, the Board found that the wife of a non-owner manager had received more overtime opportunities than other employees for a period of approximately seven months because of her relationship to the manager. The Board also found that there was no evidence that the wife enjoyed any other job-related privileges by virtue of her marital status not accorded to other employees in the unit found appropriate. Based on these facts, the Board held that the wife was to be included in the unit.

As in *Allen Services*, the Petitioner here has provided no evidence that Jennifer Calabrese currently enjoys, or has enjoyed in the past three years, any job-related privileges as a result of her marital status that are not provided to other employees in the unit found appropriate herein. Accordingly, I find that Jennifer Calabrese's marital relationship to Mark Calabrese has not afforded her any other privileges not shared by other employees, and that she shares a sufficient community of interest with the employees in the unit found appropriate herein.

The facts in *Novi American*, relied upon by the Petitioner, are distinguishable. In that case, the Employer paid the son of a non-owner manager in a manner unlike that of other employees, resulting in his not paying payroll taxes. Unlike the facts in this case, the privilege bestowed on the manager's son in *Novi American* first started when he was hired and was on-going, even at the time of the hearing in that case. In contrast, to the extent Jennifer Calabrese received any benefit (which is not supported in the record), that benefit was conferred upon her in 2004, and there is no evidence that she now receives any privileges, or has in the past three years, that have not similarly been given to other employees.

7. Formula for part-time employees for purposes of voting

In determining the eligibility of irregular part-time employees for purposes of voting in an election, the Board typically uses a formula it first applied in *May Department Stores Company*, 175 NLRB 514 (1969), and *Allied Stores of Ohio, Inc.*, 175 NLRB 966 (1969), and reiterated in *Davison-Paxon Company*, 185 NLRB 21 (1970), that provides that employees who regularly average four hours or more per week for the last quarter prior to the eligibility date have a sufficient community of interest for inclusion in the unit and may vote in the election (commonly referred to as the *Davison-Paxon* formula).

The Petitioner urges that the formula used to determine the eligibility of part-time employees in this matter be that as set forth by the Board in *Marquette General Hospital*, 218 NLRB 713, 714 (1975), which was designed to apply in circumstances where, as here, there is a significant disparity in the number of hours worked by part-time employees. See also *Crittenton Hospital*, 328 NLRB 879 (1999). The *Marquette* formula provides that part-time employees who work a minimum of 120 hours in either of the two, 3-month periods immediately preceding the direction of election are eligible to vote.

The record contains a printout of hours worked by part-time employees (EMT Intermediates and Paramedics in the Operations Department; EMT Basics, EMT Intermediates, and Paramedics in the Special Services and Events Department; Dispatchers, Suppliers, Nurses, and two unclassified employees) during the 11-week period immediately preceding the hearing between April 1, 2007, and June 15, 2007. Although the printout does not itself reflect the job classifications of each individual listed, such data was adduced by cross-referencing the printout with other employee lists in evidence. The printout details gross number of regular and overtime hours worked by each part-time employee, with a breakdown indicating the number of regular and overtime hours worked each week during that timeframe. The total number of part-time employees on the printout is 88, not including nurses whom I am excluding from the unit found appropriate herein, and including the two employees whose classifications could not be determined based on the data in the record. Of the 88 part-time employees, 20 worked fewer than 44 total hours (thus averaging fewer than 4 hours per week). Sixty eight part-time employees worked more than 44 total hours, with 24 of the 68 working between 44 and 100 total hours, and 23 of the 68 working between 100 and 300 total hours. A total of 12 part-time employees worked between 300 and 400 total hours; 6 worked between 400 and 500 total hours; and 3 worked in excess of 500 total hours.

As set forth above, the part-time employees in this case appear to have a significant disparity in hours worked based on hours worked during the 11-week period between April 1, 2007, and June 15, 2007, which is the only evidence of part-time hours contained in the record. Accordingly, I conclude that the eligibility formula set forth in *Marquette* more closely reflects the circumstances in the instant matter, and should be applied here. Thus, part-time EMT Basics, EMT Intermediates, Paramedics, Dispatchers, and Suppliers who have worked a minimum of 120 hours in either of the two, 3-month period immediately preceding the date of issuance of this Decision and Direction of Election shall be eligible to vote. This formula determines voting eligibility, but does not affect unit inclusion. *Marquette*, supra at 713.

In sum, based upon the foregoing and the stipulations of the parties at the hearing, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

> **Included:** All full-time and part-time EMT Basics, EMT Intermediates, paramedics, suppliers, dispatchers, and associate lead employees employed by the Employer at its North Las Vegas, Nevada facility.
>
> **Excluded:** All other employees, office-clerical employees, Fleet employees, nurses, guards, Operations Supervisors, Operations Field Supervisors, Special Event Supervisors, and other supervisors as defined in the Act.

There are approximately 250 employees in the unit found appropriate herein.

The unit found appropriate is different than that sought by the Petitioner. The record is not clear whether the Petitioner is willing to proceed to an election in this alternative unit. Inasmuch as I am directing an election in a unit broader than the unit sought by the Petitioner, if is so desires, the Petitioner may withdraw its petition, without prejudice, upon written notice to the undersigned within ten (10) days from the date of this Decision and Direction of Election. If, however, the Petitioner chooses to proceed to an election on the basis of the broader unit found appropriate herein, it must, to the extent it has not already done so, submit to me within 14 days from the date of this Decision and Direction of Election evidence of an adequate showing of interest in the broader unit, or the petition will be dismissed.

DIRECTION OF ELECTION

I direct that an election by secret ballot be conducted in the above unit at a time and place that will be set forth in the notice of election that will issue soon, subject to the Board's Rules and Regulations.[13] The employees who are eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Part-time EMT Basics, EMT Intermediates, paramedics, dispatchers, and suppliers who have worked a minimum of 120 hours in either of the two 3-month periods immediately preceding the date of issuance of this Decision and Direction of Election shall be eligible to vote. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Also eligible are those in military services of the United States Government, but only if they appear in person at the polls. Employees in the unit are ineligible to vote if they have quit or been discharged for cause since the designated payroll period; if they engaged in a strike and have been discharged for cause since the strike began and have not been rehired or reinstated before the election date; and, if they have engaged in an economic strike which began more than 12 months before the election date and who have been permanently replaced. All eligible employees shall vote whether or not they desire to be represented for collective-bargaining purposes by:

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS & HELPERS, AFL-CIO

[13] Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. The notices shall remain posted until the end of the election. The term "working day" shall mean an entire 24-hour period excluding Saturday, Sundays, and holidays. A party shall be estopped from objecting to non-posting of notices if it is responsible for the non-posting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 days prior to the commencement of the election that it has not received copies of the election notice. Section 103.20 (c) of the Board's Rules is interpreted as requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

LIST OF VOTERS

In order to ensure that all eligible voters have the opportunity to be informed of the issues before they vote, all parties in the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, I am directing that within **seven (7) days** of the date of this Decision, the Employer file with the undersigned, two (2) copies of election eligibility lists containing the full names and addresses of all eligible voters. The undersigned will make this list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). This list may be used by me in determining an adequate showing of interest. I shall make the list available to all parties to the election when only after I have determined that an adequate showing of interest covering the employees in the unit found appropriate has been established. In order to be timely filed, the undersigned must receive the list at the National Labor Relations Board Resident Office, 600 Las Vegas Boulevard, S., Suite 400, Las Vegas, Nevada, 89101-6637, on or before September 18, 2007. No extension of time to file this list shall be granted except in extraordinary circumstances. The filing of a request for review shall not excuse the requirements to furnish this list.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570. This request must be received by the Board in Washington, DC, by the close of business at 5:00 p.m. (EDT) on September 25, 2007**. The request may be filed electronically through E-Gov on the Board's website, www.nlrb.gov,[14] but may **not** be filed by facsimile.

Dated at Phoenix, Arizona, this 11th day of September 2007.

/s/ Cornele A. Overstreet
Cornele A. Overstreet, Regional Director
National Labor Relations Board, Region 28

[14] Electronically filing a request for review is similar to the process described above for electronically filing the eligibility list, except that on the E-Filing page the user should select the option to file documents with the **Board/Office of the Executive Secretary**. To file the request for review electronically, go to www.nlrb.gov and select the **E-Gov** tab. Then click on the **E-Filing** link on the menu. When the E-File page opens, go to the heading **Board/Office of the Executive Secretary** and click on the **File Documents** button under that heading. A page then appears describing the E-Filing terms. At the bottom of this page, the user must check the box next to the statement indicating that the user has read and accepts the E-Filing terms and then click the **Accept** button. Then complete the E-Filing form, attach the document containing the request for review, and click the **Submit Form** button. Guidance for E-Filing is contained in the attachment supplied with the Regional Office's initial correspondence on this matter and is also located under **E-Gov** on the Board's web site, www.nlrb.gov.